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Farm Operating Expenses

We would expect farm operating expenses to present more of a problem than family living expenses. There will probably be a few disagreements over whether an expense is an operating expense (as opposed to a capital expense), but it is more likely that there will be disagreements over the amount FmHA or its successor agency under Public Law 103-354 should release for operating expenses and whether a particular farm operating expense is "essential." As is the case with family living expenses, disagreements will most likely arise when proceeds are less than expenses.

To resolve disputes over the amount to be released, remember that we must be reasonable and release enough to pay for essential farm operating expenses. Although a borrower might not always agree that enough money is being released, if the borrower's essential farm operating expenses are being paid, we are fulfilling the requirements of the statute. We must provide the borrower with an opportunity to appeal when there is a disagreement over the use of proceeds or when we reject a request for a release.

Section 1962.17 of this subpart states that essential expenses are those which are "basic, crucial or indispensable." Whether an expense is basic, crucial or indispensable depends on the circumstances. For example, feed is a farm operating expense, but it is not always an essential expense. If adequate pasture is available to meet the needs of the borrower's animals, feed is not essential. Feed is essential if animals are confined in lots. Hiring a custom harvester is a farm operating expense, but is not an essential expense if the farmer has the equipment and labor to harvest the crop just as well as a custom harvester. Hired labor is an operating expense which might be essential in a dairy operation but not in a beef cattle operation. Payments to creditors are essential if the creditor is unable to restructure the debt or to carry the debt delinquent. Renting land is not essential if the borrower plans to use it to grow corn which can be purchased for less than the cost of production. Paying outstanding bills is essential if a supplier is refusing to provide additional credit but not if the supplier is willing to carry a balance due. Of course, the long term goal of any farming operation is to pay all of its expenses, but when this is not possible, FmHA or its successor agency under Public Law 103-354 and the borrower must work together to decide which farm operating expenses are essential and demand immediate attention and cannot be neglected. These are the essential expenses.

We absolutely must release to pay for essential family living and farm operating expenses; there are no exceptions to this. When

deciding whether an expense is essential and when deciding how much to release, the choices we make must be rational, reasonable, fair and not extreme. They must be based on sound judgment, supported by facts, and explained to the borrower. Following these rules will help us avoid disagreements with borrowers.

[56 FR 15829, Apr. 18, 1991]

EXHIBIT F TO SUBPART A OF PART 1962 [RESERVED]

PART 1965—REAL PROPERTY

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989, 42 U.S.C. 1480.

Subparts A-E [Reserved]

PART 1980—GENERAL

Subparts A-C [Reserved]

Subpart D—Rural Housing Loans

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- 1980.301 Introduction.
- 1980.302 Definitions and abbreviations.
- 1980.303-1980.307 [Reserved]
- 1980.308 Full faith and credit and indemnification.
- 1980.309 Lender participation in guaranteed RH loans.
- 1980.310 Loan purposes.
- 1980.311 Loan limitations and special provisions.
- 1980.312 Rural area designation.
- 1980.313 Site and building requirements.
- 1980.314 Loans on leasehold interests.
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- 1980.316 Environmental requirements.
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- 1980.318 Flood or mudslide hazard area precautions.
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- 1980.326-1980.329 [Reserved]
- 1980.330 Applicant equity requirements.
- 1980.331 Collateral.
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- 1980.333 Promissory notes and security instruments.